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EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,120

Applicant(s)

LIANG ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,9 and 14-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,9 and 14-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawing correction filed July 5, 2005 and March 20, 2006 have been approved.

However, the drawings are objected to because the lead line for reference character "64" in figure 5 does not properly identify the pin on the tumbler 21; the lead line for reference character "63" in figure 6 does not properly identify the ring of the spring; the lead line for reference character "44" in figures 7 and 11 does not properly identify a tab; figure 8 fails to include the section line --10-10-- or an equivalent thereto or the direction "C"; figure 10 fails to include cross sectional shading in accordance with MPEP 608.02; the lead line for reference character 46 in figure 13 fails to properly identify the strike surface; the lead line for reference character "45" in figure 28 fails to properly identify the underside of the face plate 16; reference character "32" in figure 28 fails to include a lead line; the reference character "30" in figure 28 does not properly identify the head of the tumbler, the lead line for reference character "33" does not properly identify the top surface of the release member.

The drawings are objected to because they include superfluous lettering such as "G direction" in figure 13 and "F direction" in figure 14.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "A" on line 20 of page 7 and "B" on line 21 of page 7.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the

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description: "60" in figure 2; "31" in figures 7, 10, 11; "D" in figure 7; "F" and "G" in figure 12; "26" in figures 16 and 28; "39" in figure 17a; "M", "J", "K", "H", "I" in figure 21, "L-L" in figures 21 and 24; "H" in figure 25; "I" in figure 26; "M" and "N" in figure 19; "P" in figure 29; "O-O" in figure 30; "P" in figure 32.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "46" has been used to designate both an element of the tumbler in figure 11 and the strike surface in figure 12 and because reference character "44" has been used to designate both a tab of the tumbler 21 in figures 7 and 11 and a tab of the housing 11 in figure 28.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

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The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the release member is not sufficiently described and because the button which actuates the release member is not set forth. Finally, the recitation "a retracted position" on line 12 is confusing since it is unclear if the applicant is referring to the retracted position set forth above or is attempting to set forth another retracted position in addition to the one set forth above. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: recitations such as "from direction C" in the paragraph starting at line 17 of page 6 should be changed to --10-10-- so as to indicate the which figure shows the view taken along the section line; the description of figure 12 is inaccurate since figure 12 shows a side view rather than a perspective view; "Figure1" on line 5 of page 7 should be changed to --Figure 1.-- to avoid confusion; the description of figure 15 on page 7 is inaccurate since figure 15 is a perspective view and figure 10 shows the tumbler rather than the release mechanism; the description of figure 16 is inaccurate since figure 16 shows a spring rather than the release mechanism; recitations such as "1that" on line 9 of page 9 appear to be typographical errors; "the spring 33" on line 13 of page 10 is confusing

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since "33" has been used to refer to the top surface of the release member on line 11 of page 10. Finally, the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 52 as "a lip portion" in the paragraph beginning on line 9 of page 9 and as "the underside" in the paragraph beginning on line 11 of page 11. Also see "tumbler" on line 3 of page 10 and "tumbler" on line 5 of page 10.

Appropriate correction is required.

Claim Objections

Claims 1-4, 9 and 14-31 are objected to because recitations such as "a face plate a front wall and a rear wall and a first and second sidewall" on lines 4-5 of claim 1 should be changed to --a face plate, a front wall, and a rear wall, and first and second sidewalls-- to avoid confusion. It is suggested the applicant avoid using different terminology when referring to the same element of the invention. For example, the applicant should avoid referring to the "side walls" on line 4 of claim 9 as "sidewalls" on line 8 of claim 9. Claims 30 and 31 are objected to because "Window" on line 1 of each claim is needlessly capitalized.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-4, 9 and 14-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "the form of inverted 'U'" on line 17 of claim 1 render the claims indefinite because they are grammatically awkward and confusing.

Recitations such as "a head" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the head set forth above or is attempting to set forth another head in addition to the one set forth above. Recitations such as "a lowered position" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the retracted position set forth above or is attempting to set forth another position in addition to the ones set forth above. Recitations such as "the front face of said housing" on line 21 of claim 15 render the claims indefinite because they lack antecedent basis. Recitations such as "a sash stile" on line 9 of claim 26 render the claims indefinite because it is unclear if the sash stile comprises part of the sliding sash member or is in addition to the sliding sash member. To avoid confusion, it is suggested the applicant change "a sash stile" on line 9 of claim 26 to --a sash stile of the sliding sash member--.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9, 14, 20-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Simpson. Brown discloses a vent stop comprising a housing 2 including a cavity 6 formed by a face plate 3, a front wall (not numbered, but shown at the right hand side of the housing as shown in figure 2), a rear wall (not numbered, but shown at the left hand side of the housing as shown in figure 2), a first 5 and second (not numbered, but shown in figure 2 as the wall having the hole 24) sidewall joining the front and rear wall and extending from the face plate, a tumbler 7 disposed in the cavity, the tumbler including a protruding apex (not numbered, but shown on the left in figure 2) at the top thereof, a pivot means 8 for pivotally securing the tumbler to the housing for movement between an extended position where a front face of the tumbler overlies an edge of a sliding member to prevent movement of the sliding member past the front face of the tumbler, and a retracted position within the cavity where the sliding member can be moved past the tumbler, a spring 11 for biasing the tumbler into the extended position, a release member 13 that has a first position for causing the tumbler to be in an extended position and a second position for causing the tumbler to be retained in a retracted position, the release member having a first base end (not numbered, but shown in figure 2 as the end of the release member 13 which engages the spring 15) and a second base end (not numbered, but shown in figure 2 as the portion of the release member which engages the pin 14) and a head (not numbered, but shown in figure 2 as the portion of the release member 14 which extends

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below the second base end), the head is in the form of an inverted U since the head is curved with the concave side thereof facing downwardly as shown in figure 2, and a button 17 disposed on the face plate 3 of the housing which when pressed causes the release member to move from the second position to the first position thereby causing the tumbler to be in an extended position, at least one retaining member 21. The button 17 can be pressed in a direction perpendicular to the plane of the front face 3 and slid from right to left as shown in figure 2 to cause the release member 13 to move from the second position to the first position. Since the applicant is claiming the subcombination of the vent stop limitations to the combination, i.e., the type of sliding member in which the vent stop is mounted, do not further limit the subcombination of the vent stop. The tumbler 7 has a tip 9 which engages the head of the release member 14 as shown in figure 2. Brown is silent concerning a recess that receives the biasing spring.

However, Simpson discloses a stop comprising a tumbler 38 including a recess 108 for receiving a biasing spring 44.

It would have been obvious to one of ordinary skill in the art to provide Brown with recess and spring combination, as taught by Simpson, to better hold the tumbler in the extended position.

Claims 1 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. in view of Simpson. Kelly et al. discloses a window vent stop for use with a non-movable sash member, and a sliding sash member, comprising: a housing (not numbered, but shown in figures 3 and 4) adapted to be disposed in a recess in said

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non-movable sash member said housing including a cavity (not numbered, but shown in figure 3), formed by a face plate 12, a front wall 13 and a rear wall (not numbered, but shown in figure 3 opposite the rear wall) and first (not numbered, but shown as the wall at the top of the housing in figure 3) and second sidewalls (not numbered, but shown in figure 3 opposite the first sidewall) joining said front and rear wall and extending from said face plate; a tumbler 10 disposed in said cavity, said tumbler including a protruding apex (not numbered, but shown in figure 3 where the surfaces 15 and 17 intersect) at the top thereof, a spring 27; a pivot means 11 for pivotally securing said tumbler to said housing for movement between an extended position where a front face of said tumbler overlies an edge of said non-movable sash member to prevent movement of said sliding sash member passed past the front face of the tumbler, and a retracted position within said cavity where said sliding sash member, can be moved past the tumbler; said spring is used for biasing said tumbler into said extended position; a release member 21 that has a first position (not shown) wherein said first position allows said tumbler to pivot to said extended position, and a second position shown in figure 3 wherein said second position confines said tumbler in said retracted position, said release member 21 having a first base end 21' and a second base end (not numbered, but shown in figure 3 engaging the pin 23) and a head (not numbered, but comprising the portion of the release member including the U-shaped portion 20) in the form of inverted "U"; and a button 25, disposed on the face plate 12 of said housing so it is accessible when said housing is disposed in said recess, which when pressed causes said release member to move from said second position to said first position thereby causing said tumbler to be

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in said extended position, the release member is in the form of an inverted T as shown in figure 3. It should be noted that Kelly et al. disclose the "inverted" limitations of claims 1 and 30 since the invention of Kelly et al. can be mounted in an orientation which is inverted to the one shown in figure 3. Kelly et al. is silent concerning a recessed portion for the spring.

However, Simpson discloses a stop comprising a tumbler 38 including a recess 108 for receiving a biasing spring 44.

It would have been obvious to one of ordinary skill in the art to provide Kelly et al. with recess and spring combination, as taught by Simpson, to better hold the tumbler in the extended position.

Claims 15-19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Simpson as applied to claims 1-4, 9, 14, 20-24 and 26-28 above, and further in view of Lindstrom et al.

Lindstrom et al. discloses a pivoting tumbler 31 including a pair of retaining members 41 extending from the sides of the tumbler which dictate the maximum extended position for the tumbler, the retaining member mesh with a pair of tracks 40 in side walls of the housing 27.

It would have been obvious to one of ordinary skill in the art to provide Brown with a control mechanism, as taught by Lindstrom et al., to stabilize the pivotal movement of the tumbler. See page 2, lines 24-27.

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Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Simpson as applied to claims 1-4, 9, 14, 20-24 and 26-28 above, and further in view of Charlton.

Charlton discloses a spring 50 comprising a ring 52 which receives a protrusion 54 in a recess (not numbered, but shown in figure 2) of a tumbler 34.

It would have been obvious to one of ordinary skill in the art to provide Brown with a spring connection, as taught by Charlton, to apply a more constant spring force to the tumbler as it moves from its retracted position to its extended position.

Allowable Subject Matter

Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach a release member that includes an inverted U shaped head and that is in the shape of an inverted T and that pivots about first and second pins. Although it is known to have pivoting release members, one of ordinary skill in the art would not be motivated, absent applicant's disclosure, to provide the release member of Kelly et al. with the ability to pivot.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Endter discloses a latching mechanism comprising a U-shaped release member.

Response to Arguments

Applicant's arguments filed August 31, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Brown and Simpson, the examiner respectfully disagrees. Brown, in figure 2 discloses a release member 13. The release member includes a first base end engaging the spring 15 and a second base end engaging the pin 14. The portion of the release member 13 which extends downwardly away from the pin 14 comprises the inverted U. The portion is inverted since the portion is concave and faces generally downwardly as shown in figure 2. Additionally, the portion is in the form of a U since it is generally U shaped as shown in figure 2.

With respect to the applicant's comments concerning Charlton, the examiner respectfully disagrees. Charlton, as shown in figure 2, discloses a spring 50. One end of the spring includes the ring 52 while the other end of the spring comprises the distal ends of the straight portions of the spring.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", is written over the printed name.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
November 3, 2006